

## BYRD AMENDMENT TALKING POINTS

HOUSE  
REPUBLICAN  
CONFERENCE

★ GOP.GOV ★ 109TH Congress ★

DEBORAH PRYCE, CHAIRMAN

*Courtesy: House Committee on Ways and Means*

### Continued Dumping and Subsidy Offset Act *The Byrd Amendment*

*The House Ways and Means Committee has proposed legislation that seeks to repeal the Continued Dumping and Subsidy Offset Act, commonly known as the “Byrd Amendment” that produces \$3.2 billion in savings. The Byrd Amendment requires duties collected under antidumping and countervailing duty orders be distributed to eligible producers who supported the initial petition that resulted in the imposition of duties.*

#### **Background**

- The “Byrd Amendment” requires duties collected under antidumping and countervailing duty (CVD) orders to be distributed to eligible domestic producers.
  - The Byrd Amendment did not go through the regular legislative process.
    - It was enacted in the 2000 agricultural appropriations bill and the Ways and Means Committee was not able to evaluate the implications of the provision.
  - The Government Accountability Office (GAO) has found the Byrd Amendment to be bad government policy with unfortunate consequences for many domestic manufacturers.
- The proposed legislation repeals the requirement that collected duties be distributed to eligible domestic producers. Instead, the duties would be deposited into the general fund of the Treasury (as was done prior to enactment of CDSOA in 2000).
- Repeal of the Byrd Amendment will save \$3.2 billion

#### **Reasons for the Change**

- **Unfair Distribution Benefits Few Companies:** Since the inception of the Byrd Amendment in 2001, over \$1 billion has been disbursed to a small number of U.S. companies and industries.
  - Five companies have received almost half (46 percent) of all payments.
  - Two-thirds of all payments went to three industries: **bearings, candles and steel.**

- **Not a Trade Remedy:** The Byrd Amendment does not provide a “trade remedy” in the traditional sense because it is not available to all companies.
  - Many domestic producers impacted by dumped or subsidized imports are ineligible to receive funds because they did not formally and publicly support the petition that resulted in the duties.
  - Two-thirds of dumping and CVD orders for which Byrd Amendment payments are made precede the Amendment, and companies did not know they needed to support the petition to collect money.
  
- **Pervasive Fraud and Abuse:** Customs and Border Patrol (CBP) disburses payments to recipient companies based on claims for “qualifying expenditures,” but they do not routinely verify company claims. Instead they rely on industry competitors to bring the truth to light.
  - To date, CBP has verified a handful of claimants, with one in-depth verification in which found significant problems, including substantial overstatement of claimed expenses.
  - The Byrd Amendment provides incentives for companies to inflate claims. Because funds are disbursed on a pro-rata basis to companies eligible under each separate order, the biggest companies receive the most money.
  - Claims for qualifying expenditures in 2004 were just under \$2 trillion dollars. While it is obvious that claims are inflated, there is no penalty for excessive claims.
  
- **Inconsistent with WTO Obligations:** Eleven World Trade Organization (WTO) members successfully challenged the Byrd Amendment in the WTO, and eight complainants have been authorized to retaliate against U.S. exports up to \$134 million.
  - Canada, Mexico, the European Union, and Japan, have already imposed retaliatory tariffs against a wide variety of U.S. exports.
  - Congressional action is required to bring the United States into compliance with the WTO determination, thereby ending the retaliation.